

21 C.J.S. Courts § 345

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Courts

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X. Clerks of Courts

E. Deputies and Assistants

§ 345. Appointment; eligibility and qualifications

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Some statutes provide for the appointment of deputies or assistants by the clerk of court, whereas other statutes or constitutional provisions provide for appointment by the judge.

Some statutes provide for the appointment of deputies or assistants by the clerk of court,¹ or by the clerk upon application to² or approval of³ the court, whereas other statutes or constitutional provisions provide for appointment by the judge of the particular court in which the deputies or assistants are to serve.⁴ There is authority holding that where it is the clerk's duty independently to hire his or her deputies, a board of county commissioners⁵ or the judge of the court⁶ has no authority to interfere with the clerk's appointment. Other authority holds that despite a statute providing that court clerks have responsibility for the internal administration of their offices, including the selection and appointment of personnel, a trial judge has the inherent judicial authority to challenge the qualifications of the appointments that clerks wish to make.⁷

Eligibility and qualifications.

Although the legislature may prescribe qualifications for persons to be employed as deputy clerks of court,⁸ judges may set hiring guidelines or require the clerk to hire only people who have certain minimum educational or experience qualifications.⁹ A judge's authority to control and supervise judicial personnel includes the inherent authority, independent of statute, to ensure that assistant clerks serving in their courts are qualified and possess the skills and competence to enable them to perform their duties in a professional manner and in conformity with governing statutes, rules, orders, and standards of accountability.¹⁰

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Footnotes

- 1 Ill.—*Kane County v. Carlson*, 116 Ill. 2d 186, 107 Ill. Dec. 569, 507 N.E.2d 482 (1987).

 Mass.—*First Justice of Bristol Div. of Juvenile Court Dept. v. Clerk-Magistrate of Bristol Div. of Juvenile Court Dept.*, 438 Mass. 387, 780 N.E.2d 908 (2003).

 Mont.—*Conboy v. State*, 214 Mont. 492, 693 P.2d 547 (1985).
- 2 Tenn.—*Boarman v. Jaynes*, 109 S.W.3d 286 (Tenn. 2003).
- 3 Md.—*Chester v. State*, 32 Md. App. 593, 363 A.2d 605 (1976).
- 4 N.Y.—*People ex rel. Foley v. Unger*, 123 A.D. 310, 108 N.Y.S. 373 (1st Dep't 1908).

 W. Va.—*State ex rel. Core v. Merrifield*, 202 W. Va. 100, 502 S.E.2d 197 (1998).
- 5 Wash.—*Osborn v. Grant County By and Through Grant County Com'rs*, 130 Wash. 2d 615, 926 P.2d 911 (1996).
- 6 Fla.—*Morse v. Moxley*, 691 So. 2d 504 (Fla. 5th DCA 1997).

 Idaho—*Crooks v. Maynard*, 112 Idaho 312, 732 P.2d 281 (1987).

 Okla.—*Petuskey v. Cannon*, 1987 OK 74, 742 P.2d 1117 (Okla. 1987).
- 7 Mass.—*First Justice of Bristol Div. of Juvenile Court Dept. v. Clerk-Magistrate of Bristol Div. of Juvenile Court Dept.*, 438 Mass. 387, 780 N.E.2d 908 (2003).
- 8 Ill.—*People ex rel. Vanderburg v. Brady*, 275 Ill. 261, 114 N.E. 25 (1916).
- 9 Idaho—*Crooks v. Maynard*, 112 Idaho 312, 732 P.2d 281 (1987).
- 10 Mass.—*First Justice of Bristol Div. of Juvenile Court Dept. v. Clerk-Magistrate of Bristol Div. of Juvenile Court Dept.*, 438 Mass. 387, 780 N.E.2d 908 (2003).

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